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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/690,769	10/22/2003	Nayan Dalal	TRADE 3.0-002	6959

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EXAMINER

NGUYEN, SON T

ART UNIT PAPER NUMBER

3643

DATE MAILED: 04/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/690,769

Applicant(s)

DALAL ET AL.

Examiner

Son T. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

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Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claims 1,4,5** are rejected under 35 U.S.C. 102(b) as being anticipated by US 5586350 (herein 350).

For claim 1, 350 discloses in fig. 2, a bolstered pet bed, comprising: a) a bottom cushion outer covering 15 having a bottom cushion interior compartment, and a bottom cushion 12 for being received therein; b) a bolster cushion outer covering 15' having a bolster cushion interior compartment, and a bolster side cushion 13 for being received therein; c) connecting means 14 for removably connecting said bottom cushion outer covering to said bolster cushion outer covering for forming said bolstered pet bed; d) first closure means (col. 4, lines 65-67 and col. 5, lines 1-5) for opening and closing said bottom cushion interior compartment for removably inserting said bottom cushion therein; and e) second closure means (col. 4, lines 65-67 and col. 5, lines 1-5) for opening and closing said bolster cushion interior compartment for removably inserting said bolster side cushion therein.

For claim 4, 350 discloses wherein said first closure means for opening and closing said bottom cushion interior compartment are selected from the group consisting of a zipper member or hook and loop fasteners (col. 4, lines 65-67 and col. 5, lines 1-5).

For claim 5, 350 discloses wherein said second closure means for opening and closing said bolster cushion interior compartment are selected from the group consisting of a zipper member or hook and loop fasteners (col. 4, lines 65-67 and col. 5, lines 1-5).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 2,3,8,9,11,12** are rejected under 35 U.S.C. 103(a) as being unpatentable over 350 (as above).

For claim 2, 350 discloses the connecting means 14 is some sort of detachable connection means such as re-stick adhesive or hook and loop fastener (col. 2, line 32). It would have been an obvious substitution of functional equivalent to substitute the re-stick adhesive or hook and loop fastener as taught by 350 with a zipper member for removably connecting said bottom cushion outer covering to said bolster outer cushion covering, since both types of connecting means would allow the bolster to be detached from the bottom cushion.

For claim 3, as mentioned above in claim 2, it would have been an obvious substitution of functional equivalent to substitute the re-stick adhesive or hook and loop fastener as taught by 350 with a zipper member for removably connecting said bottom cushion outer covering to said bolster outer cushion covering, since both types of connecting means would allow the bolster to be detached from the bottom cushion. In

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addition, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include a first zipper strip element being fixedly attached to an outside wall section of said bottom cushion outer covering and a second zipper strip element being fixedly attached to an inner side wall section of said bolster cushion outer covering of the bed of 350, since such zipper configuration is notoriously well known in the art to have strip elements for structural reinforcement of the zipper.

For claim 8, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have the second zipper strip element on said inner side wall section of said bolster cushion outer covering is adjacent to said second closure means in the bed of 350, since such zipper configuration is notoriously well known in the art to have strip elements for structural reinforcement of the zipper.

For claim 9, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have the zipper member with a length of 66 inches in the bed of 350, since it has been held that where routine testing and general experimental conditions are present, discovering the optimum or workable ranges until the desired effect is achieved involves only routine skill in the art.

For claim 11, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have the zipper member of said first closure means has a length of 30 inches in the bed of 350, since it has been held that where routine testing and general experimental conditions are present, discovering the optimum or workable ranges until the desired effect is achieved involves only routine skill in the art.

For claim 12, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have the zipper member of said second closure means has a length of 24 inches in the bed of 350, since it has been held that where routine testing and general experimental conditions are present, discovering the optimum or workable ranges until the desired effect is achieved involves only routine skill in the art.

5. **Claims 6,7,10** are rejected under 35 U.S.C. 103(a) as being unpatentable over 350 (as above) in view of US 5765502 (herein 502).

For claim 6, 502 teaches a pet bed in which a bolster side cushion is semi-circular in shape. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the bolster side cushion of 350 in a semi-circular shape as taught by 502, depending on the user's preference to do so for his/her intended use. In addition, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have the bolster side cushion of 350 as modified by 502 with an arc length of 66 inches and a maximum width of 10.5 inches, since it has been held that where routine testing and general experimental conditions are present, discovering the optimum or workable ranges until the desired effect is achieved involves only routine skill in the art.


For claim 7, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have the bottom cushion of 350 as modified by 502 with a diameter of 32 inches and a depth of 10 inches at the center of said bottom cushion, since it has been held that where routine testing and general experimental

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conditions are present, discovering the optimum or workable ranges until the desired effect is achieved involves only routine skill in the art.

For claim 10, in addition to the above, 502 teaches cushion 4 and bolster 6 being made out of polyester fibers (col. 3, line 27). It would have been obvious to one having ordinary skill in the art at the time the invention was made to manufacture the cushion and bolster of 350 out of polyester fibers as taught by 502, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious choice.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son T. Nguyen whose telephone number is (703) 305-0765. The examiner can normally be reached on Monday - Friday from 9:00 a.m. to 5:00 p.m. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon, can be reached at (703) 308-2574. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to Customer Service at (703) 872-9325. The official fax number is 703-872-9306.


Son T. Nguyen
Primary Examiner, GAU 3643
April 12, 2004